

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 2/7/2025
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN FAICAN.,

Plaintiff,

-v-

LENOX PARKING GARAGE, LLC, *et al.*,

Defendants.

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GREGORY H. WOODS, United States District Judge:

1:23-cv-10633-GHW

ORDER

On June 12, 2024, Defendant Ronald Massie, who appears *pro se* and is the only Defendant who has appeared in this case, filed a motion to dismiss the claims against him for failure of service of process. Dkt. No. 36 (the “Motion to Dismiss”). Plaintiff filed his opposition on July 19, 2024. Dkt. No. 46. On July 26, 2024, Mr. Massie filed a reply. Dkt. No. 49. On September 27, 2024, the Court scheduled a necessary evidentiary hearing for October 18, 2024 at 2:00 p.m. with respect to whether Mr. Massie was properly served with process. Dkt. No. 51.

On October 1, 2024, at the parties’ request, the Court adjourned the evidentiary hearing to November 7, 2024. Dkt. No. 53. On October 24, 2024, following a telephonic conference and at the parties’ request, the Court again adjourned the hearing to January 15, 2025. Dkt. No. 54. On January 14, 2025, the Court adjourned the hearing for a third time at the parties’ request to February 5, 2025. Dkt. No. 60. On February 3, 2025, the Court adjourned the hearing, for a fourth time, to February 24, 2025 because Mr. Massie was in the hospital and could not attend. Dkt. No. 62. In its February 3, 2024 order, the Court advised that the parties “should not expect the Court to grant additional adjournments.” *Id.* On February 5, 2024, the parties submitted a letter seeking a different date for the hearing. Dkt. No. 63. The letter indicates that Mr. Massie seeks an adjournment of “one to two months.” *Id.* Because the parties have already been granted four

adjournments and because Mr. Massie now seeks an additional two-month adjournment of the evidentiary hearing, which is necessary for the Court to resolve Mr. Massie's Motion to Dismiss, the Court treats the Motion to Dismiss as withdrawn. However, Mr. Massie is granted leave to refile his Motion to Dismiss without additional briefing.


For the foregoing reasons, Mr. Massie's Motion to Dismiss is withdrawn. The evidentiary hearing scheduled for February 24, 2025 is adjourned *sine die*. The Court will hold a conference to set a date for the hearing by telephone on April 2, 2025 at 4:00 p.m. The parties are directed to the Court's Individual Rules of Practice in Civil Cases, which are available on the Court's website. Rule 2 of the Court's Individual Rules contains the dial-in number for the conference and other relevant instructions. The parties are specifically directed to comply with Rule 2(C) of the Court's Individual Rules.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is directed to terminate the motions pending at Dkt. Nos. 36,

63. SO ORDERED.

Dated: February 7, 2025  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge